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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,954	01/09/2004	Kathleen M. Smith	ST8777US	8832
22203	7590	03/06/2006	EXAMINER	
KUSNER & JAFFE HIGHLAND PLACE SUITE 310 6151 WILSON MILLS ROAD HIGHLAND HEIGHTS, OH 44143			GARG, YOGESH C	
			ART UNIT	PAPER NUMBER
			3625	
DATE MAILED: 03/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/754,954

Applicant(s)

SMITH ET AL.

Examiner

Yogesh C. Garg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/19/2005 has been entered.

### ***Response to Amendment***

2 Applicant's amendment received on December 19, 2005 is acknowledged and entered. The applicant has amended claims 1, 6, 10 and 12, canceled claims 11 and 13. . Currently claims 1- 10, and 12 are pending for examination.

### ***Response to Arguments***

3.1. Applicant's arguments with respect to currently amended claims 1-6 have been considered but are moot in view of the new ground(s) of rejection necessitated due to amendments.

The applicant has argued (see Remarks, page 8, lines 5-12) that Friedman does not teach communicating with an antimicrobial treatment device but rather such as patient care devices as pumps, etc. and therefore fails to teach the limitations of claim 1. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references, that is Friedman and Sanaka, wherein Sanaka discloses information management systems for

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tracking antimicrobial devices, such as sterilizer. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Similarly, the applicant's argument that Sanaka teaches one-way communication is not persuasive because one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references, that is Friedman and Sanaka, wherein Friedman clearly teaches two-way communication between the server and the devices and clients. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

3.2. In view of the amendments made to claims 1, 6, 10 and 12 and cancellation of claims 11 and 13 rejection of claims 11 and 13 under 35 USC 112, first paragraph and rejection of claims 10-13 under 35 USC 112, second paragraph are withdrawn.

#### ***Claim Rejections - 35 USC § 103***

4 The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4.1. Claims 1-2, 4-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman et al. (US Publication 2005/0137653), hereinafter, referred to Friedman in view of Sanaka et al. (US Patent 5,696,896), hereinafter referred to Sanaka.

Regarding claim 1, Friedman discloses an information management system (see Fig.1 and paragraph 0013) for tracking instruments, comprising:

at least one instrument tracking client, each instrument tracking client installed on a respective general purpose computer (see at least paragraph 0041 and the reference numbers "34", "36", "38", ... "42"... "46" | Fig.1. The computer systems represented by numbers "34", "36", "38", ... "42"... "46" are associated with different departments and correspond device/instrument tracking clients installed on computer systems to communicate with other server/computer via communication network);

at least one antimicrobial treatment device (See Fig.1, reference number "12" [also at least paragraphs 0042-0043] which is a computerized medical device capable of bi-directional communication with the information system server "30"). Note: Both the claim limitation and the applicant's specification do not elaborate on the functional details of this device except that the communication server can send commands to it and receives data from it. Sending commands and receiving data is also performed by "12" medical device disclosed in Friedman. Friedman does not disclose that the device is an antimicrobial treatment device for reducing microbial contamination of a medical instrument by means of at least one treatment agent. However, in the same field of endeavor, Sanaka discloses an information management system for tracking a sterilizer, that is antimicrobial treatment device which is capable for reducing microbial contamination of a medical instrument by means of at least one treatment agent (see at least " 15 Sterilizer " in Fig.1 which corresponds to antimicrobial device, also see col.4, lines 50-57). In view of Sanaka, it would have been obvious to one of an ordinary skilled in the art at the time of the applicant's invention to have modified Friedman to include stabilizer along with other medical devices, such as pumps, physiological monitors, etc. because it will enhance Friedman's information management system to include monitoring the functioning of sterilizers/washers which, as

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known to one of an ordinary skilled in the art are used in hospitals to wash and sterilize the medical instruments .

Friedman also does not teach that the instrument tracking client assigns a device identifier for identifying each of the antimicrobial treatment devices and a load identifier for identifying medical instruments treated together using a first antimicrobial treatment process. However, in the same field of endeavor, Sanaka discloses assigning a device identifier for identifying each of the antimicrobial treatment devices and a load identifier for identifying medical instruments treated together using a first antimicrobial treatment process (see at least Figs.9, 31 and col.12, lines 30-55). In view of Sanaka, it would have been obvious to one of an ordinary skilled in the art at the time of the applicant's invention to have modified Friedman/Sanaka as already applied to claim 1 above to include the feature that the clients monitoring the functioning of sterilizers/washers assigns a device identifier for identifying each of the antimicrobial treatment devices and a load identifier for identifying medical instruments treated together using a first antimicrobial treatment process because it will enable the clients to correlate the items being sterilized, such as lenses in Sanaka, to be identified as when and in which sterilizer run they were sterilized and to generate and store such records for future references.

Friedman discloses a communication server interface in bi-directional communication with the at least one instrument tracking client and the at least one antimicrobial treatment device, said communication server interface programmed to:

request data from the at least one antimicrobial treatment device, transmit requests from the at least one instrument tracking client, receive first data from the at least one antimicrobial treatment device, receive requests from the at least one instrument tracking client, said requests including (1) the device identifier and (20 the load identifier, transmit

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data to the at least one instrument tracking client, (for all above functions, (see at least Fig.1 and paragraphs 0013, 0042-0043 wherein " Hospital information system server " 30" is capable of communicating with both instrument tracking clients and the treatment device, to transmit and receive requests and data) and request data fro an instrument client (see at least paragraphs 0049-0050 which disclose that data pertaining to patient specific information , etc can be asked from client computers, such as 34, 36, etc. and therefore this application when applied to Friedman/Sanaka as applied above would result in requesting data such as assigned numbers of lot numbers for sterilizing contents in a sterilizer from the clients as described in Sanaka, see Fig.9,31 and col.12, lines 30-55).

Regarding claim 2, Friedman in view of Sanaka discloses that the information management system according to claim 1, wherein said communication server interface includes a communication server installed on a general purpose computer system (see Friedman, at least paragraph 0052-0053).

Regarding claim 4, Friedman in view of Sanaka discloses an information management system according to claim 1, wherein said system further comprises a computer network for connecting said respective general purpose computer system with said communication server interface (see Freidman, at least Fig.1 and paragraph 0041).

Regarding claim 5, Friedman in view of Sanaka discloses that the information management system according to claim 1, wherein said antimicrobial treatment device is selected from the group consisting of a sterilizer and a washer (Already covered in claim 1 that the device is a sterilizer).

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Regarding claim 10, Freidman in view of Sanaka discloses that the treatment device responds to said command by transmission of data from at least one device to the server interface (see at least paragraph 0013, " .....including querying the medical device about the status of the medical device and for receiving information fro the medical device representative of the status of the medical device...")

Regarding claims 6-9, and 12 their limitations are closely parallel to the limitations of claims 1-2 and 4-5 and are therefore analyzed and rejected on the same basis.

4.2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman in view of Sanaka as applied to claim 2 above, and further in view of Mukherjee (US Patent 6,314,415).

Regarding claim 3, Friedman in view of Sanaka does not discloses that said communication server in claim 2 is implemented as at least one of a Component Object Model (COM), a COM+, and a Distributed Component Object Model (DCOM). However, Mukherjee discloses use of Component Object Model (COM), a COM+, and a Distributed Component Object Model (DCOM) (see at least col.5, lines 23-46 and col.6, lines 37-col.7, line 27). In view of Mukherjee, it would have been obvious to one of an ordinary skill in the art at the time of the applicant's invention to have modified Sanaka to incorporate Mukherjee's teaching of using Component Object Model (COM), a COM+, and a Distributed Component Object Model (DCOM) because it will facilitate insertion of components [COM] into various systems and configurations and avoiding redundant and unnecessary information and permit changes to the user interfaces without relying on "hard coded" software (see Mukherjee, col.2, lines 19-24).



**Conclusion**

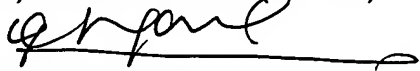
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

WO 2005/048041 A2 to Zwingenberger discloses a computerized method and system to identify analyze and record information associated with disinfection and sterilization procedures (see at least Abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Yogesh C Garg  
Primary Examiner  
Art Unit 3625

YCG  
3/1/2006